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EXAMINER	
MISLEH, JUSTIN P	

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/768,629	HYODO ET AL.	
	Examiner	Art Unit	
	Justin P Misleh	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 October 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2 and 5 - 22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2 and 5 - 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 January 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4 October 2004 have been fully considered but they are not persuasive; however, Applicant's arguments with respect to existing Claims 11 – 17 and new Claims 18 – 22 have been considered but are moot in view of the new grounds of rejection. The amendments to independent Claims 11 and 13 broaden the scope of the claim; thus warranting new grounds of rejection.

Windle – frame argument

1. The Applicant's take the position that Windle, as characterized in figure 7, does not disclose a composition assist frame on the basis that the Examiner's interpretation of the term "composition assist frame" appears to be contrary to the definition set forth in the specification, as shown in figures 15(A) – 15(F).

2. The Examiner completely disagrees with the Applicant's position. Windle discloses, as stated in column 6 (lines 26 – 37), that a template includes a number elements, "including a positioning indicator 401, a line up marker 404, and a center marker 405." Windle goes on further by stating, "these elements, although visible on the LCD 203 are not captured as part of any image." Finally, Windle makes it clear that "depending on the implementation, the elements can appear on a portion of the display in which the image is not displayed, or can be composited over the image."

3. Furthermore, Windle indicates that each template is actually a frame that overlays a captured preview images to assist a user in capturing a final image. Windle also notes that the elements can circumscribe an area within the display – i.e. "the elements can appear on a portion of the display in which the image is not displayed."

4. Lastly, in response to Applicant's argument that Windle fails to show that the templates are generally rectangular in shape, the feature upon which Applicant relies is not recited in the claim language. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Windle – shooting mode argument

5. The Applicant argues that Windle does not disclose, "extracting at least one composition assist frame associated with the selected shooting mode from a plurality of composition assist frames."

6. The Examiner completely disagrees with Applicant's interpretation of the claim language. The claim language is written broadly enough such that it allows for a one-to-one correspondence between a plurality of shooting modes and a plurality of composition assist frames – i.e. selecting a shooting mode directly corresponds to extracting and selecting a composition assist frame. For instance, turning to independent Claim 6, the claim requires, *inter alia*, "enables selection of a shooting mode ... extracts one or more composition assist frame that can be selected ... enables selection of a composition assist frame". Hence, once a shooting mode is selected at least one composition assist frame can be extracted. Claim 6 does not require

that a plurality of composition assist frames must be extracted; however, only requires that a plurality of composition assist frames exist, which is disclosed in Windle.

7. Windle discloses as shown in figure 3, a plurality of shooting modes that are each in one-to-one correspondence with a composition assist frame. Furthermore, Windle provides a plurality of composition assist frames—landscape, pan shot, and portrait.

Claim Objections

8. **Claims 6, 11, and 13** are objected to because of the following informalities: minor typographical errors resulting in language inconsistencies.

Claim 6 recites therein, "a composition assist frame selecting device that enables selection of a composition assist frame from **the composition assist frames extracted** by the extracting device". The claim language lacks consistency because the extracting device is only required to extract one or more composition assist frame and is not required to always extract a plurality of composition assist frames.

For the purposes of examination, the Examiner will interpret the above recitation as follows: "a composition assist frame selecting device that enables selection of a composition assist frame from **the one or more composition assist frames extracted** by the extracting device".

Claims 11 and 13 recite therein, "the direction of the camera determined by the direction determining device"; however, the direction determining device determines whether the camera is held widthwise or lengthwise. Also see the informalities regarding Claim 6.

9. Appropriate correction is required.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. **Claims 2, 6, 7, 10, 18, 21, and 22** are rejected under 35 U.S.C. 102(e) as being anticipated by Windle.

12. For **Claims 6 and 18** (please see objection above), Windle discloses, as shown in figures 2 – 7 and as stated in columns 4 (lines 38 –43), 5 (lines 42 – 49), 6 (lines 1 – 37 and 49 – 58), 7 (lines 22 – 32 and 44 – 67), and 8 (lines 23 – 28), a digital camera (202) and a corresponding method of operating thereof comprising:

a shooting mode selecting device (205) that selects a shooting mode from a plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17);

an imaging device (202) that images a subject (201) in the shooting mode selected by the shooting mode selecting device (205) and outputs image signals;

an image displaying device (203) that displays the image according to the image signals outputted from the imaging device (see figures 2 – 7);

a storing device (103/108; see figure 1) that stores data of a plurality of composition assist frames (see column 4, lines 38 – 43);

an extracting device (104; see figure 1 and column 4, lines 38 – 43) that extracts one or more composition assist frames (Landscape template, Panoramic template, Portrait template) that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device (see figure 3 and see column 6, lines 9 – 17);

a composition assist frame selecting device (104; see figure 1 and column 4, lines 38 – 43) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and

a composition assist frame displaying device (203) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

13. As for **Claim 2**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

14. As for **Claim 7**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

15. As for **Claim 10**, Windle discloses, as shown in figure 1 and as stated in column 4 (lines 25 – 32), the digital camera (202) as defined in Claim 6, further comprising a storage device (image recorder) that stores the image signals outputted from the imaging device (202) in a storage medium (output via the output interface 102 such as digital video recorders and/or image recording devices).

16. As for **Claim 21**, Windle discloses a one-to-one correspondence between the composition assist frames and the selected shooting mode. Furthermore, Windle discloses a plurality of shooting modes and a plurality of composition assist frames.

17. As for **Claim 22**, Windle discloses, as stated in column 6 (lines 26 – 37), that a template includes a number elements, "including a positioning indicator 401, a line up marker 404, and a center marker 405." Windle goes on further by stating, "these elements, although visible on the LCD 203 are not captured as part of any image." Finally, Windle makes it clear that "depending on the implementation, the elements can appear on a portion of the display in which the image is not displayed, or can be composited over the image." Furthermore, Windle indicates that each template is actually a frame that overlays a captured preview images to assist a user in capturing a final image. Windle also notes that the elements can circumscribe an area within the display – i.e. "the elements can appear on a portion of the display in which the image is not displayed."

Therefore, Windle discloses wherein each of composition assist frames circumscribes an area with the display.

18. **Claims 5, 11 – 14, 17, 19, and 20** are rejected under 35 U.S.C. 102(b) as being anticipated by Fujifilm MX-2900 Zoom Digital Camera Owner's Manual (herein referred to "The Manual"). The Manual was published on 1 June 1999 as stated therein (see page 107).

19. For **Claim 11** (please see objections above), The Manual discloses, as shown on pages 8 – 11, 45, 102, and 103, a digital camera and a corresponding method of operating thereof comprising:

an imaging device (CCD; see Specifications on pages 102 and 103) that images a subject and outputs image signals;

an image displaying device (LCD monitor; see Specifications on pages 102 and 103) that displays the image according to the image signals outputted from the imaging device;

a storing device (not specifically shown, but inherent therein) that stores data of a plurality of composition assist frames (also see Framing Guidelines on page 45);

a direction determining device that determines whether the digital camera is held widthwise or lengthwise (see below for explanation);

an extracting device (Mode dial and "DISP" button) that extracts one or more composition assist frames (Scene, Group Shot, and Portrait) that can be selected from the plurality of composition assist frames according to the direction of the camera determined by the direction determining device (see below for explanation);

a composition assist frame selecting device ("DISP" button) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and

a composition assist frame displaying device (LCD Monitor; see Specifications on pages 102 and 103) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

The "direction determining device" limitation is written broadly enough such that it allows for a one-to-one correspondence between determining whether the digital camera is held widthwise or lengthwise and a plurality of composition assist frames – i.e. determining widthwise or lengthwise directly corresponds to extracting and selecting a composition assist frame. For instance, the claim requires, *inter alia*, "determining whether the digital camera is held widthwise or lengthwise ... extracts one or more composition assist frames ... enables selection of a composition assist frame". Hence, once at least one composition assist frame is extracted, widthwise or lengthwise is determined.

In addition Claim 11 does not require that a plurality of composition assist frames must be extracted; however, only requires that a plurality of composition assist frames exist, which is disclosed in The Manual.

Finally, The Manual discloses as shown on page 45, a digital camera held widthwise with a corresponding composition assist frame and the digital camera held lengthwise with a corresponding composition assist frame.

20. For **Claims 13 and 20** (please see objections above), The Manual discloses, as shown on pages 8 – 11, 45, 102, and 103, a digital camera and a corresponding method of operating thereof comprising:

a shooting mode selecting device (Mode dial and "DISP" button; see pages 8 – 11 and 45) that enables selection of a shooting mode from a plurality of shooting modes (Manual mode, Automatic mode, Scene mode);

an imaging device (CCD; see Specifications on pages 102 and 103) that images a subject and outputs image signals;

an image displaying device (LCD monitor; see Specifications on pages 102 and 103) that displays the image according to the image signals outputted from the imaging device;

a storing device (not specifically shown, but inherent therein) that stores data of a plurality of composition assist frames (also see Framing Guidelines on page 45);

a direction determining device that determines whether the digital camera is held widthwise or lengthwise (see below for explanation);

an extracting device (Mode dial and "DISP" button) that extracts one or more composition assist frames (Scene, Group Shot, and Portrait) that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device (The camera must be in automatic mode to extract a frame; see page 45) and the direction of the camera determined by the direction determining device (see below for explanation);

a composition assist frame selecting device ("DISP" button) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and

a composition assist frame displaying device (LCD Monitor; see Specifications on pages 102 and 103) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

The "direction determining device" limitation is written broadly enough such that it allows for a one-to-one correspondence between determining whether the digital camera is held widthwise or lengthwise and a plurality of composition assist frames – i.e. determining widthwise or lengthwise directly corresponds to extracting and selecting a composition assist frame. For instance, the claim requires, *inter alia*, "determining whether the digital camera is held widthwise or lengthwise ... extracts one or more composition assist frames ... enables selection of a composition assist frame". Hence, once at least one composition assist frame is extracted, widthwise or lengthwise is determined.

In addition Claim 11 does not require that a plurality of composition assist frames must be extracted; however, only requires that a plurality of composition assist frames exist, which is disclosed in The Manual.

Finally, The Manual discloses as shown on page 45, a digital camera held widthwise with a corresponding composition assist frame and the digital camera held lengthwise with a corresponding composition assist frame.

21. As for **Claims 12 and 17**, The Manual discloses, as shown on pages 102 and 103), a storage device (SmartMedia) that stores the image signals outputted from the imaging device in a storage medium.

22. As for **Claims 5 and 14**, The Manual discloses, as shown on pages 8 – 11 and 45, wherein the plurality of shooting modes include at least an automatic shooting mode and a day scenic shooting mode.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24. **Claims 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Windle in view of Kyuma et al.

25. As for **Claim 8**, Windle discloses a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes and a an extracting device that extracts one or more composition assist frames that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device. However, Windle does not disclose a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device.

On the other hand, Kyuma et al. also disclose a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes. More specifically, Kyuma et al. disclose, as shown in figures 3 and 6 – 8 and as stated in columns 6 (lines 12 – 28 and 43 – 62), 7 (lines 11 – 15), and 10 (lines 7 – 46), a digital camera (see figure 3) comprising a luminance determining device (Lookup tables 19a, 19b, and 19c and CPU 25) that determines subject luminance by weighting areas (see figure 6 – 8; figure 8 corresponds to a landscape photography mode) of the image according to the shooting mode (from among

plurality of shooting modes; see column 6, lines 43 – 56) selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device (see column 6, lines 57 – 62). As stated in column 2 (lines 8 – 35), at the time the invention was made, one with ordinary skill in the art would have been motivated to include a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, disclosed by Windle, as a means to provide an optimal photographing operation correspond to all photographing environments at all times. Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, disclosed by Windle.

26. As for **Claim 9**, Kyuma et al. disclose, as stated in columns 6 (lines 57 – 62) and 9 (lines 28 – 35), wherein the luminance determining device corrects the subject luminance according to the shooting mode selected by the shooting mode selecting device.

27. **Claims 15 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujifilm MX-2900 Zoom Digital Camera Owner's Manual (herein referred to "The Manual") in view of Kyuma et al.

28. As for **Claim 15**, The Manual discloses a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes and a an extracting device that extracts one or more composition assist frames that can be selected from

the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device. However, The Manual does not disclose a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device.

On the other hand, Kyuma et al. also disclose a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes. More specifically, Kyuma et al. disclose, as shown in figures 3 and 6 – 8 and as stated in columns 6 (lines 12 – 28 and 43 – 62), 7 (lines 11 – 15), and 10 (lines 7 – 46), a digital camera (see figure 3) comprising a luminance determining device (Lookup tables 19a, 19b, and 19c and CPU 25) that determines subject luminance by weighting areas (see figure 6 – 8; figure 8 corresponds to a landscape photography mode) of the image according to the shooting mode (from among plurality of shooting modes; see column 6, lines 43 – 56) selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device (see column 6, lines 57 – 62).

As stated in column 2 (lines 8 – 35), at the time the invention was made, one with ordinary skill in the art would have been motivated to include a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, disclosed by The Manual, as a means to provide an optimal photographing operation correspond to all photographing environments at all times. Therefore, at the time the invention was made, it would have been obvious to one with

ordinary skill in the art to have included a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, disclosed by The Manual.

29. As for **Claim 16**, Kyuma et al. disclose, as stated in columns 6 (lines 57 – 62) and 9 (lines 28 – 35), wherein the luminance determining device corrects the subject luminance according to the shooting mode selected by the shooting mode selecting device.

Conclusion

30. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

31. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 703.305.8090 (571.272.7313 ~ March 2005). The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 5:00 PM and on alternating Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy R Garber can be reached on 703.305.4929. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM
March 2, 2005

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